



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Microphor, Inc.
File: B-233148
Date: November 28, 1988

DIGEST

1. Protest against cancellation of request for proposals will not be considered where the initial agency-level protest was not timely filed.
2. General Accounting Office will not review an agency's determination to perform services in-house rather than by contracting out unless agency has issued a solicitation for purposes of cost comparison under Office of Management and Budget Circular A-76.

DECISION

Microphor, Inc., protests the cancellation of request for proposals (RFP) No. N00123-87-R-1122, issued by the Naval Regional Contracting Center, Long Beach, California. Prior to the closing date for receipt of proposals, the Navy determined that specification changes were necessary to meet the agency's needs, and that it would be in the best interests of the government to perform the contract work in-house.

We dismiss the protest.

In its report on the protest, the Navy states that on August 29, 1988, it notified Microphor of the cancellation of the RFP and that the contract work would be performed in-house. By amendment of August 31, the Navy canceled the RFP in its entirety. Microphor states that it received the cancellation amendment on September 8 and filed an agency-level protest on September 16. Microphor subsequently filed a protest with our Office on October 12.

The Navy argues that we should dismiss the protest as untimely because Microphor failed to file its initial protest to the agency within 10 working days after the

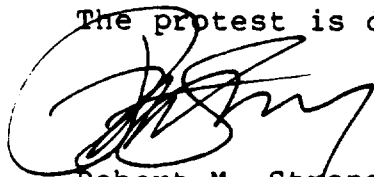
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protester learned of its basis of protest. Under our Bid Protest Regulations, when a protest is filed with the contracting agency, it must be filed within 10 working days after the basis of protest is or should have been known in order for our Office to consider a subsequent protest. 4 C.F.R. § 21.2(a)(3) (1988); Systonetics, Inc., B-231070, May 3, 1988, 88-1 CPD ¶ 432.

In this case, Microphor was informed on August 29 of the cancellation of the solicitation. Thus, to be timely under our regulations, Microphor should have filed its agency-level protest within 10 working days of that date, that is, by September 13. Since Microphor did not file its agency-level protest until September 16, the initial protest was untimely and we will not consider its subsequent protest to our Office.

In any event, our Office will not review the Navy's determination to perform the RFP services in-house rather than contract them out. We regard such decisions as matters of executive branch policy and will review them only where a competitive solicitation has been issued for cost comparison purposes. Etc. Technical & Professional Services, Inc., B-227554, July 2, 1987, 87-2 CPD ¶ 12. Since no competitive solicitation has been issued here for the purposes of performing a cost comparison under Office of Management and Budget Circular A-76, the Navy's decision to perform the services in-house is not a proper matter for our review.

The protest is dismissed.



Robert M. Strong
Associate General Counsel